

UNITED STATES DISTRICT COURT

DISTRICT OF MAINE

MILDRED E. KIEF,)
)
 PLAINTIFF)
)
 v.) CIVIL No. 1:18-cv-35-DBH
)
 WRIGHT MEDICAL TECHNOLOGY,)
 INC.,)
)
 DEFENDANT)

ORDER ON PARTIAL MOTION TO DISMISS FIRST AMENDED COMPLAINT

The defendant's motion to dismiss Counts 5 (fraud by concealment) and 6 (fraudulent misrepresentation) of the First Amended Complaint is **DENIED**. I conclude that the plaintiff has now satisfied the pleading standards of Fed. R. Civ. P. 9(b) and federal caselaw. I have examined carefully Simpson v. Wright Medical Group, Inc., No. 17-62, 2018 WL 1570795 (E.D. Ark. Mar. 30, 2018), and Dumler v. Wright Med. Tech., Inc., No. 17-2033, 2018 U.S. Dist. LEXIS 12667 (N.D. Iowa Jan. 26, 2018), both involving prosthetic hip implants produced by this defendant or a related entity (as does this case). With the added information in the First Amended Complaint, I conclude that Simpson rather than Dumler applies, and that the First Amended Complaint survives the motion to dismiss.

So ORDERED.

DATED THIS 21ST DAY OF MAY, 2018

/s/D. BROCK HORNBY

D. BROCK HORNBY

UNITED STATES DISTRICT JUDGE